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UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,698	12/21/2001	Ilkka Rahnasto	004770.00782	6934

22907 7590 04/27/2007	**EXAMINER**
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ART UNIT	PAPER NUMBER
3621	

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SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

	Application No.	Applicant(s)
Office Action Summary	10/023,698	RAHNASTO, ILKKA
	Examiner	Art Unit	
	Bradley B. Bayat	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>15 February 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>33-57</u> is/are pending in the application.

    4a) Of the above claim(s) <u>39,40,42-45,51,53 and 55</u> is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>33-38,41,46-50, 52, 54, 56 and 57</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Status of Claims

This communication is in response to amendment filed on February 15, 2007. Claims 33-

37, 39, 41, 42, 46, 51, 52 and 56 have been amended. Claims 33-57 remain pending and claims

39,40,42-45,51,53 and 55 have been withdrawn from consideration. Thus claims 33-38, 41, 46-

50, 52, 54, 56 and 57 are presented for examination.

Response to Arguments

Applicant contends that the cited reference fails to disclose "detecting along the

communication path between at least two terminals a predetermined tag within content during

the distribution of content over a network or networks and reporting the detection together with

information identifying a sender and/or recipient of the content (response pp. 6-7)." The

examiner respectfully disagrees.

Shippy discloses in paragraph [0066] that:

At block 1820, a tag is inserted into the payload in the place of the saved payload portion. The tag includes in the preferred embodiment both an identification of the data stream 612 and an identification of the data stream source 614, the source identified because a safeguarding system may include more than one source circuit. The encryption keys and the saved portion of the payload are each referenced to the data-stream identifier. At block 1825, a flag in the header is marked to indicate that the block contains a payload tag. At block 1830, the data block is sent to the appropriate decoder 102 along the data-stream transmission channel described with reference to FIG. 14, or alternatively described with reference to FIG. 17. At block 1835, the appropriate application decoder has received the data block from the splitter 1432 with reference to FIG. 14. At block 1840 the application decoder that has received the data block reads the header flag position and at block 1845 determines whether the header flag is marked. If the header flag indicates that the payload does not contain a marked flag, control passes out of this flow. If the header flag indicates that the payload does contain a tag, control passes to block 1850 where the data stream identifier datum and the source datum are read and an identifier of each is sent back to each PCX module or alternatively, only the data stream identifier is sent back to the source module circuit identified by the source datum. In the embodiment in which the application decoder module, and the PCX module are

physically separate devices, the identifier(s) are sent back to the PCX module along the separate channel as herein described.

Furthermore, the data-stream transmission path of Shippy includes "the PCX module 106 that sends the exemplary intertwined data-stream to a driver stack 1410. The driver stack 1410 sends the data-stream to a splitter 1432, wherein each separate data-stream is then separated and separately transmitted to an appropriate exemplary application decoder 102a or 102b. The video data-stream is routed to the exemplary video application decoder 102a, and the exemplary audio data-stream is routed to the exemplary audio application decoder 102b. The non-data-stream data transmission path between the PCX module 106 and the decoder 102a is exemplary bus 1460a, and between the PCX module 106 and the decoder 102b is exemplary bus 1460b, wherein buses 1460a and 1460b may be identical physical devices. The non-data-stream data includes the identifier necessary for the PCX module to access the data block decryptor keys and optional portion of the payload. The non-data-stream data preferably includes a data-stream identification datum and a source identification datum from the decoders 102a and 102b, and the encryption keys and the portion of a replaced payload from the PCX module 106. The preferred embodiment non-data-stream data additionally includes an authentication and key exchange (AKE) from the PCX module 106 to the exemplary application decoders 102a and 102b to enable a separately encrypted tag and the aforementioned encryption keys to be themselves encrypted, assuring the embodiment of an authorized and secure decoder(s) 102 in communication with the PCX 106 module and receiving the data-stream. The precise method of transmitting and receiving the data-streams, datum identifiers, and encryption keys, shall be described with reference to FIG. 17 [0059]."

In fact, "at block 1855 the appropriate PCX module reads the data stream identifier. The proper application keys and portion of the payload are determined by reference to the data stream identifier. The second set of encryption key(s) and the stored portion of the payload that was replaced by the tag are transmitted to the target application decoder in accordance with the data stream identifier. In the embodiment in which the application decoder module and the PCX module are physically separate devices, the identifiers are sent back to the PCX module along the separate channel as herein described. At block 1860, the appropriate application decoder receives the decryption keys key(s) and the payload portion transmitted from the PCX module at block 1855, and decrypts the key(s) with the session key, replaces the payload portion from the tag position, and then decrypts the payload using the decrypted key(s) [0067]."

The examiner notes that applicant's specification provides that "the tag, which may be suitably encrypted and/or concealed may take the form of a watermark, flag in the header or otherwise embedded in the content. As an alternative or adjunct to encrypting the tag, the transmission itself may be encrypted. In addition, the content may be generated to include spoiler code to prevent its playback, for example, if the tag is removed [0010]." As such, applicant's argument that the reference is merely directed to using encryption to secure content is erroneous as noted and referenced above (response p. 8).

Applicant's contention that Shippy does not disclose the "detection step" is without merit. Id. In fact, Shippy specifies that:

> [0033] It should be borne in mind, however, that all of these and similar terms are to be associated with the appropriate physical quantities and are merely convenient labels applied to these quantities. Unless specifically stated otherwise as apparent from the following discussion, it is appreciated that throughout the description, discussions utilizing terms such as "processing" or "computing" or "calculating" or "determining" or "displaying" or the like, refer to the action and processes of a circuit that can include a

programmed computer system, or similar electronic computing device. A computer system manipulates and transforms data represented as physical (electronic) quantities within the computer system's registers and memories into other data similarly represented as physical quantities within the computer system memories or registers or other such information storage, transmission or display devices.

Accordingly, the amendments and arguments fail to overcome the reference and the rejection is maintained and made FINAL. [Please note that the citations and references to Shippy above have become part of the rejection below.]

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 33-38, 41, 46-50, 52, 54, 56 and 57 are rejected under 35 U.S.C. 102(e) as being anticipated by Shippy et al., (hereinafter Shippy, US 2005/0254645 A1).

As per the following claims, Shippy discloses:

33. A network device comprising a controller that detects, along a communication path between at least two terminals, a predetermined tag within content passed along the communication path and reports the detection together with information identifying a sender and/or recipient of the content [0055-66, payload contains tag identifying the stream and stream source].

34. A method comprising detecting along the communication path between at least two

terminals, a predetermined tag within content transmitted through the network and reporting the

detection together with information identifying a sender and/or recipient of the content with a

network device [0055-66, payload contains tag identifying the stream source].

35. A computer program stored in a computer readable medium for carrying out the method

according to claim 34 in a processor in the network which when executing causes the processor

to perform the steps of: detecting a predetermined tag within the content by the network; and

responding the detection together with information identifying at least one of a sender of the

content and a recipient of the content [0055-66, payload contains tag identifying the stream

source; 0033-0034, computer program].

36. A system comprising a network device located in a communication path, between at least

two terminals, in the network and a monitoring center connected to the device wherein a

controller is included in the device which detects, along the communication path a predetermined

tag within content in the communication path and to report the detection of the predetermined tag

together with information identifying a sender and/or recipient of the content to the center [0055-

66; fig 10-12 and associated text].

37. A system as claimed in Claim 36, wherein the monitoring center receives reports from a

plurality of networks each having at least one controller [0033-38].

38. A system as claimed in Claim 36, comprising a billing entity connected to the center [0055; negotiation and authentication engine for access].

41. A method as claimed in Claim 34, wherein the information includes a network identity such that the center issues the request to a billing entity responsible for the identified network [0055, stream identifier; figs 14-17 and associated text].

46. A method comprising, obtaining content, placing the content and tag into a payload portion of the message, and transmitting the message over the network including a network device between at least two terminals [0055-66, tag payload content data].

47. A method as claimed in Claim 46, wherein the content is obtained by downloading from a server [0059-60, decrypting data stream on a communication network].

48. A method as claimed in Claim 46, wherein the content is obtained from a data carrier uploading from a player of the data carrier [fig 4 and associated text].

49. A method as claimed in Claim 46, wherein the message comprises at least one packet [0055].

50. A method as claimed in claim 49, wherein the tag is embedded in the at least one packet
[0055].

52. A computer program which performs the method of claim 34 stored in a computer readable
medium comprising executable code for execution when loaded on a controller within the
network [0060-61; fig 14 and associated text].

54. A computer program which performs the method of claim 46 stored in a computer readable
medium comprising executable code for execution when loaded on a controller within the
network, wherein the controller is operable in accordance with the code [0056; fig 14 and
associated text].

56. A method comprising generating a control message by a network device along a
communication path between a content originating device and a destination device, sending the
control message to a monitoring center connected to the device, the control message indicating
passing of content having a predetermined tag embedded within the content through the network
device, the control message comprising an identification of the content originating device, a
destination address for the content, and a flag created by the network device [0055-66].

57. A method as claimed in Claim 56, wherein the flag identifies the network device [0055-66].

Although the Examiner has pointed out particular references contained in the prior art(s) of

record in the body of this action, the specified citations are merely representative of the

teachings in the art as applied to the specific limitations within the individual claim. Since

other passages and figures may apply to the claimed invention as well, it is respectfully

requested that the applicant, in preparing the response, to consider fully the entire references

as potentially teaching all or part of the claimed invention, as well as the context of the

passage as taught by the prior arts or disclosed by the examiner.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Bradley B. Bayat whose telephone number is 571-272-6704. The

examiner can normally be reached on Tuesday-Friday 8 a.m.-6:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Andrew Fischer can be reached on 571-272-6779. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Bradley B. Bayat
Primary Examiner
Art Unit 3621